

# SENATE BILL 253

P3

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By: **Senators Jacobs and Ferguson**

Introduced and read first time: January 25, 2012

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Government – Administrative Procedure Act – Proposed Regulations**

3 FOR the purpose of altering a certain period of time after which a unit in the  
4 Executive Branch of State government may adopt a proposed regulation;  
5 altering a certain period of time within which the Joint Committee on  
6 Administrative, Executive, and Legislative Review may make a certain  
7 determination and delay the adoption of a regulation in a certain manner;  
8 altering a certain period of time that provides the Committee with a further  
9 period of review of a proposed regulation under certain circumstances; altering  
10 a certain period of time for public comment on a proposed regulation; requiring  
11 a unit to publish the text of a proposed regulation on the unit's Web site no later  
12 than the date that the regulation is published in the Maryland Register;  
13 requiring a unit that submits a proposed regulation to the Committee for  
14 approval of emergency adoption to publish the text of the proposed regulation  
15 on the unit's Web site no later than the date that the regulation is submitted to  
16 the Committee for approval of emergency adoption; requiring a unit to publish a  
17 proposed regulation on its Web site in a certain manner; and generally relating  
18 to proposed regulations under the Administrative Procedure Act.

19 BY repealing and reenacting, without amendments,  
20 Article – State Government  
21 Section 10–101(a), (b), (c), (f), (g), and (i), 10–109, and 10–112  
22 Annotated Code of Maryland  
23 (2009 Replacement Volume and 2011 Supplement)

24 BY repealing and reenacting, with amendments,  
25 Article – State Government  
26 Section 10–111(a) and (b)(1)  
27 Annotated Code of Maryland  
28 (2009 Replacement Volume and 2011 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to  
2 Article – State Government  
3 Section 10–112.1  
4 Annotated Code of Maryland  
5 (2009 Replacement Volume and 2011 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article – State Government**

9 10–101.

10 (a) In this subtitle the following words have the meanings indicated.

11 (b) “Administrator” means the Administrator of the Division of State  
12 Documents.

13 (c) “Committee” means the Joint Committee on Administrative, Executive,  
14 and Legislative Review.

15 (f) “Register” means the Maryland Register.

16 (g) (1) “Regulation” means a statement or an amendment or repeal of a  
17 statement that:

18 (i) has general application;

19 (ii) has future effect;

20 (iii) is adopted by a unit to:

21 1. detail or carry out a law that the unit administers;

22 2. govern organization of the unit;

23 3. govern the procedure of the unit; or

24 4. govern practice before the unit; and

25 (iv) is in any form, including:

26 1. a guideline;

27 2. a rule;

28 3. a standard;

1                                   4.     a statement of interpretation; or

2                                   5.     a statement of policy.

3                   (2)     “Regulation” does not include:

4                           (i)     a statement that:

5                                   1.     concerns only internal management of the unit; and

6                                   2.     does not affect directly the rights of the public or the  
7 procedures available to the public;

8                           (ii)    a response of the unit to a petition for adoption of a  
9 regulation, under § 10–123 of this subtitle; or

10                           (iii)  a declaratory ruling of the unit as to a regulation, order, or  
11 statute, under Subtitle 3 of this title.

12                   (3)     “Regulation”, as used in §§ 10–110 and 10–111.1 of this subtitle,  
13 means all or any portion of a regulation.

14           (i)     “Unit” means an officer or unit authorized by law to adopt regulations.

15 10–109.

16           This Part III of this subtitle applies only to a unit in the Executive Branch of  
17 the State government.

18 10–111.

19           (a)    (1)    Except as provided in subsection (b) of this section, a unit may not  
20 adopt a proposed regulation until:

21                           (i)     after submission of the proposed regulation to the  
22 Committee for preliminary review under § 10–110 of this subtitle; and

23                           (ii)    at least **[45] 55** days after its first publication in the  
24 Register.

25                   (2)    (i)     If the Committee determines that an appropriate review  
26 cannot reasonably be conducted within **[45] 55** days and that an additional period of  
27 review is required, it may delay the adoption of the regulation by so notifying the  
28 promulgating unit and the Division of State Documents, in writing, prior to the  
29 expiration of the **[45–day] 55–DAY** period.

1 (ii) If notice is provided to the promulgating unit pursuant to  
 2 subparagraph (i) of this paragraph, the promulgating unit may not adopt the  
 3 regulation until it notifies the Committee, in writing, of its intention to adopt the  
 4 regulation and provides the Committee with a further period of review of the  
 5 regulation that terminates not earlier than the later of the following:

6 1. the 30th day following the notice provided by the  
 7 promulgating unit under this subparagraph; or

8 2. the ~~[105th]~~ **115TH** day following the initial  
 9 publication of the regulation in the Register.

10 (3) The promulgating unit shall permit public comment for at least  
 11 ~~[30]~~ **40** days of the ~~[45-day]~~ **55-DAY** period under paragraph (1)(ii) of this  
 12 subsection.

13 (b) (1) The unit may adopt a proposed regulation immediately if the unit:

14 (i) declares that the emergency adoption is necessary;

15 **(II) PUBLISHES THE PROPOSED REGULATION ON ITS WEB**  
 16 **SITE IN ACCORDANCE WITH § 10-112.1 OF THIS SUBTITLE;**

17 ~~[(ii)]~~ **(III)** submits the proposed regulation to the Committee  
 18 and the Department of Legislative Services, together with the fiscal impact statement  
 19 required under subsection (c) of this section; and

20 ~~[(iii)]~~ **(IV)** has the approval of the Committee for the emergency  
 21 adoption.

22 10-112.

23 (a) (1) This subsection does not apply to the emergency adoption of a  
 24 regulation.

25 (2) To have a proposed regulation published in the Register, a unit  
 26 shall submit to the Administrator:

27 (i) the proposed regulation; and

28 (ii) a notice of the proposed adoption.

29 (3) The notice under this subsection shall:

30 (i) state the estimated economic impact of the proposed  
 31 regulation on:

1                   1.     the revenues and expenditures of units of the State  
2 government and of local government units; and

3                   2.     groups such as consumer, industry, taxpayer, or trade  
4 groups;

5                   (ii)    include a statement of purpose;

6                   (iii)   satisfy the requirements of § 2–1505.2 of this article;

7                   (iv)    comply with § 7–113(c) of the Human Services Article; and

8                   (v)     give persons an opportunity to comment before adoption of  
9 the proposed regulation, by:

10                   1.     setting a date, time, and place for a public hearing at  
11 which oral or written views and information may be submitted; or

12                   2.     giving a telephone number that a person may call to  
13 comment and an address to which a person may send comments.

14                   (4)    (i)     The estimated economic impact statement required under  
15 paragraph (3)(i) of this subsection shall state whether the proposed regulation imposes  
16 a mandate on a local government unit.

17                   (ii)    If the proposed regulation imposes a mandate, the fiscal  
18 impact statement shall:

19                   1.     indicate whether the regulation is required to comply  
20 with a federal statutory or regulatory mandate; and

21                   2.     include, in addition to the estimate under paragraph  
22 (3)(i)1 of this subsection, the estimated effect on local property tax rates, if applicable,  
23 and if the required data is available.

24                   (b)    As soon as the Committee approves emergency adoption of a regulation,  
25 the Committee shall submit the regulation to the Administrator.

26                   (c)    If a regulation under this section amends or repeals an adopted  
27 regulation, the text of the regulation under this section shall show the changes with  
28 the symbols that the Administrator requires.

29 **10–112.1.**

30                   **(A)   WHENEVER A UNIT PUBLISHES A PROPOSED REGULATION IN THE**  
31 **REGISTER IN ACCORDANCE WITH § 10–112 OF THIS SUBTITLE, THE UNIT SHALL**

1 PUBLISH THE TEXT OF THE PROPOSED REGULATION ON THE UNIT'S WEB SITE  
2 NOT LATER THAN THE DATE THAT THE PROPOSED REGULATION IS PUBLISHED  
3 IN THE REGISTER.

4 (B) WHENEVER A UNIT SUBMITS A PROPOSED REGULATION TO THE  
5 COMMITTEE FOR APPROVAL OF EMERGENCY ADOPTION IN ACCORDANCE WITH §  
6 10-111(B) OF THIS SUBTITLE, THE UNIT SHALL PUBLISH THE TEXT OF THE  
7 PROPOSED REGULATION ON THE UNIT'S WEB SITE NOT LATER THAN THE DATE  
8 THAT THE PROPOSED REGULATION IS SUBMITTED TO THE COMMITTEE FOR  
9 APPROVAL OF EMERGENCY ADOPTION.

10 (C) TO COMPLY WITH THE PUBLICATION REQUIREMENT OF THIS  
11 SECTION, A UNIT SHALL:

12 (1) PUBLISH THE TEXT OF THE PROPOSED REGULATION ON THE  
13 UNIT'S HOME PAGE ON ITS WEB SITE; OR

14 (2) PROVIDE A LINK ON THE UNIT'S HOME PAGE TO THE TEXT OF  
15 THE PROPOSED REGULATION IF THE TEXT OF THE REGULATION IS AVAILABLE  
16 ELSEWHERE ON THE UNIT'S WEB SITE.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 2012.